

Sarah Skow

From: Sarah Skow
Sent: Friday, May 24, 2019 1:05 PM
To: Fusonie, Thomas H. (thfusonie@vorys.com); Herlihy, Kimberly Weber (KWHerlihy@vorys.com); Shuey, Daniel E. (deshuey@vorys.com)
Cc: Gerald Kowalski
Subject: Drewes Farms Partnership v. City of Toledo -- Case No. 19 CV 434

Good afternoon, Counsel.

We write to follow up regarding the information and documents related to the standing issues we discussed with the Court pertaining to Plaintiff Drewes Farms Partnership ("DFP"), and the Court's subsequent May 20th order about the production of such materials by June 7th.

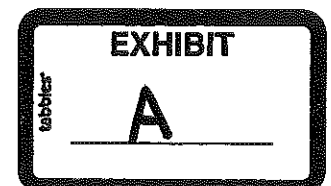
The information and documents Defendant has requested relate to DFP's complaint and include:

- The governing documents for DFP's partnership, including any corporate or entity documents;
- Identification of each of DFP's locations;
- Documents related to the ownership of each of DFP's locations;
- Identification of each of DFP's tenants at each location;
- Documents related to the tenants at each DFP location, including the "numerous leases," and the manure fertilization applied by the Wood County dairy farm to the Farm Property;
- Documents regarding any fertilization requirements for any DFP location;
- All Fertilizer Application Certificate(s);
- Documents related to any edge of field study;
- Any referenced Contracts, including referenced production contracts;
- Documents related to the best practices referred to in the complaint, including the Variable Rate Technology and Tri-State Fertilizer Recommendations employed by DFP;
- Documents related to DFP's fertilization practices and the scientific recommendations made to DFP;
- Any certificates that DFP claims may be impacted by LEBOR;
- Documents related to the risk(s) the City of Toledo's actions have allegedly caused DFP;
- Documents regarding the alleged investment DFP has made in its fertilizer practices;
- Documents regarding the Ohio Department of Agriculture's recognition of DFP;
- Documents regarding DFP's certification under the Ohio Agricultural Stewardship Verification Program;
- All documents related to any real or perceived harm or damage DFP alleges may be due to LEBOR; and
- Documents regarding the payment of DFP's attorneys fees, including engagement or retention agreements.

Per the Court's May 20, 2019 Order, the City reiterates as it did in our May 9, 2019 correspondence to you and in our May 17th call with the Court, the City cannot agree to the questions and proposed stipulations you raised by your April 9th correspondence. Because LEBOR was passed by a duly-authorized citizens' initiative petition, and is now part of the City's Charter, the City cannot now answer or agree to the 24 issues you have proposed for a consent decree, because that would improperly amend or repeal LEBOR without a general vote of the people of Toledo on the same. See, Ohio Constitution, Article XVIII, §9, and City of Toledo Charter, Chapter V.

Please let us know when we can expect to begin receiving the rolling production of the requested information and documents. Have a nice weekend.

Sincerely,



Sarah

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Sarah Skow

From: Sarah Skow
Sent: Tuesday, June 25, 2019 5:38 PM
To: 'Shuey, Daniel E.'; Daniel J. Martin; Gregg H. Bachmann; Gerald Kowalski
Cc: Fusonie, Thomas H.; Herlihy, Kimberly Weber; Ingram, Christopher L.
Subject: RE: Drewes Farms Partnership, et al. v. Toledo

Dear Counsel,

On May 24, 2019, following up on our May 17th conference call with the Court and the Court's May 20th Order, I wrote to confirm the information and documents that the City seeks in discovery pertaining to Drewes Farms Partnership's ("DFP") standing in this action; DFP did not object to the documents and information requested.

DFP's 3 partial productions do not contain many items which we requested that are related to issues pertaining to DFP's standing in this action.

Specifically, we do not believe that we have the following items which we previously requested:

- Documents related to the manure fertilization applied by the Wood County dairy farm to the Farm Property;
- All Documents regarding any fertilization requirements for any DFP location;
- Documents related to any edge of field study;
- Documents related to the best practices referred to in the complaint, including the Variable Rate Technology and Tri-State Fertilizer Recommendations employed by DFP;
- Documents related to DFP's fertilization practices and the scientific recommendations made to DFP;
- Any certificates that DFP claims may be impacted by LEBOR;
- Documents related to the risk(s) the City of Toledo's actions have allegedly caused DFP;
- Documents regarding the alleged investment DFP has made in its fertilizer practices;
- Documents regarding the Ohio Department of Agriculture's recognition of DFP;
- Documents regarding DFP's certification under the Ohio Agricultural Stewardship Verification Program; and
- All documents related to any real or perceived harm or damage DFP alleges may be due to LEBOR;

If any of the above items were produced in the May 28, May 31, or June 7 partial productions, please identify the Bates Numbers for the documents and the corresponding category above.

To date, we have not received any of the requested documents about the payment of DFP's attorneys fees, including engagement or retention agreements, which we requested during our conference call with Judge Zouhary and which pertain to the real party in interest and DFP's standing on the section 1988 claim. If DFP is dismissing its section 1988 claim for attorneys' fees please let us know and we will follow up accordingly.

We request that you provide us with these documents no later than Friday, June 28th. We would prefer not having to bring these issues to the Court, but will do so to ensure that the City has the documents it requested regarding DFP's standing before proceeding further in motion practice.

Thank you.

Sincerely,

Sarah



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From: Shuey, Daniel E. [mailto:deshuey@vorys.com]
Sent: Friday, June 07, 2019 4:23 PM
To: Daniel J. Martin; Gregg H. Bachmann; Sarah Skow; Gerald Kowalski
Cc: Fusonie, Thomas H.; Herlihy, Kimberly Weber; Ingram, Christopher L.
Subject: Drewes Farms Partnership, et al. v. Toledo

Counsel,

Please follow the below link to find the final disclosure of documents for Plaintiff Drewes Farms Partnership pursuant to the Court's May 20, 2019 order.

<https://vorys.sharefile.com/f/foadf925-cb4a-4075-ae21-8bdf1903724b>



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Partner

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